



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

via UPS

JAN 05 2017

Jon VanWyk, Environmental Administrator
Tucker Industrial Liquid Coatings, Inc.
407 North Ave.
East Berlin, PA 17316

**Re: Notice of Violation
Compliance Evaluation Inspection
Tucker Industrial Liquid Coatings, Inc.
EPA ID No.: PAR000035915**

Docket No.: R3-17-NOV-RCRA-013

Dear Mr. VanWyk:

On April 5-6, 2016, the U.S. Environmental Protection Agency, Region III ("EPA") conducted a Compliance Evaluation Inspection (report narrative and photographs attached) under the Pennsylvania Solid Waste Management Act ("SWMA"), as amended, 35 P.S. §§ 6018.101 - 6018.1003, and the Resource Conservation and Recovery Act ("RCRA"), as amended, 42 U.S.C. Sections 6901 et seq. Based on the inspection and/or review of other pertinent information, EPA has determined that the Tucker Industrial Liquid Coatings, Inc. facility ("TILC" or "the facility") was in violation of regulations promulgated under the SWMA and RCRA. As a result of this finding, the Agency is issuing this **Notice of Violation (NOV)**. The specific violations follow:

1. At the time of the inspection several containers of waste rags were found throughout the facility, all of which were either unlabeled or labeled only as "Oily Waste Can." For waste rags that would be considered Hazardous due only to solvent content, and which the facility intends to have laundered, all containers holding such rags must be labeled "Excluded Solvent-Contaminated Wipes" [25 Pa. Code § 261a.1. & 40 C.F.R. § 261.4(a)(26)(i)]. According to the facility's 4/22/16 email from Brian Tucker to Kimberly Chavez of EPA, which was included as an attachment to the inspection report, the facility has revised its labeling procedures to comply with the requirements of the exclusion.
2. In the Hazardous Waste Accumulation Area (HWAA), inspectors observed six 55gal drums, one of which did not have a start accumulation date on its label (see photo #4 of attached photolog). Additionally, one 55gal drum was found to be undated and labeled only as "REX," and another 55gal drum in this area was found with an open bung hole (photo #5). To qualify for less-than-90-day storage of Hazardous Waste (HW) without a permit, TILC must ensure that all HW containers are labeled as "Hazardous Waste" and

with their accumulation start dates, and remain closed unless adding or removing waste [Pa. Code § 262a.10. & 40 C.F.R. §§ 262.34(a)(1)(i), (2)&(3), and 265.173(a)]. It was noted in the report that the facility closed the open drum at the time of the inspection.

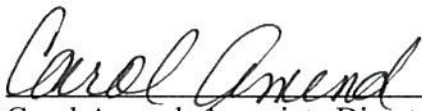
3. Next to the HWAA the inspectors observed an open and unlabeled container holding used fluorescent lamps, as well as two used lamps seen resting against a wall. To allow for storage and management as Universal Waste (UW), all used lamps must be placed into closed containers [Pa. Code 266b.1, 40 C.F.R. § 273.13(d)(1)] and marked with one of the following phrases: "Universal Waste Lamp(s)," "Waste Lamp(s)," or "Used Lamp(s)" [Pa. Code 266b.1, 40 C.F.R. § 273.14(e)]. Additionally, UW may not be stored onsite for longer than one year from the time of generation unless the requirements of 40 C.F.R. § 273.15(b) are met [Pa. Code 266b.1, 40 C.F.R. § 273.15(a)], and the facility must therefore be able to demonstrate the length of time that the UW has been accumulated [Pa. Code 266b.1, 40 C.F.R. § 273.15(c)]. It is noted in the facility's 4/22/16 response that all used lamps have since been placed into closed, labeled, and dated containers.
4. On one side of this storage area, as well as in the Paint Storage Building, the inspectors observed several containers of old products and paints. At the time of the inspection it appeared that the facility would store materials such as this for an indefinite time while waiting to decide if they could be donated, recertified, or must be disposed of. Once a material becomes a waste, the facility must determine whether or not it is Hazardous, and manage it appropriately [Pa. Code § 262a.10. & 40 C.F.R. § 262.11]. According to the facility's 4/22/16 response, it appears that TILC has since revised its procedures to properly determine and manage this material.
5. During the records review part of the inspection, it was determined that the facility had not conducted RCRA annual refresher training for any employee in 2015. For each employee whose responsibilities include HW management, the facility must ensure that they receive initial and annual refresher RCRA training [Pa. Code § 262a.10. and 40 C.F.R. §§ 262.34(a)(4) & 265.16]. It was noted in the facility's 4/22/16 response that RCRA training had been conducted on 4/13/16.
6. It was also noted at the time of the inspection that the facility's Contingency Plan was missing a list of emergency equipment and their locations as required in Pa. Code § 262a.10. & 40 C.F.R. §§ 262.34(a)(4) & 265.52(e). The facility's 4/22/16 response stated that its Contingency Plan had been properly updated to include this information.

As noted above, it appears that the facility has already corrected all violations noted during the inspection. No further response is required. The facility may still submit documentation of any measures it has taken or is taking to achieve compliance with the violations noted above or provide an explanation of facts and circumstances that cause you to believe that EPA's determination of the alleged violations is in error. If the compliance measures identified are planned or are on-going, please provide a schedule for when the compliance measures will be completed.

With regard to the Small Business Regulatory Enforcement and Fairness Act (SBREFA), please see the "Information for Small Businesses" memo, enclosed, which might be applicable to your company. This enclosure provides information on contacting the SBREFA Ombudsman to comment on federal enforcement and compliance activities and also provides information on compliance assistance. As noted in the enclosure, any decision to participate in such program or to seek compliance assistance does not relieve you of your obligation to respond in a timely manner to an EPA request or other enforcement action, create any rights or defenses under law, and will not affect EPA's decision to pursue this enforcement action. To preserve your legal rights, you must comply with all rules governing the administrative enforcement process. The Ombudsman and fairness boards do not participate in the resolution of EPA's enforcement action. EPA has not made a determination as to whether or not you [or your company] are covered by the SBREFA.

Section 3008(a) of RCRA authorizes EPA to take an enforcement action whenever it is determined that any person has violated, or is in violation, of any requirement of RCRA as amended. Such an action could include a penalty of up to \$37,500 per day of violation. In addition, failure to achieve and maintain compliance with the regulations cited in this NOV may be treated as a repeated offense and may constitute a "knowing" violation of Federal law. This NOV is not intended to address all past violations, nor does it preclude EPA from including any ongoing violations, including the ones cited in this letter, or past violations in any future enforcement action. Any response to this NOV should be addressed to:

Martin Matlin (3LC70)
U.S. Environmental Protection Agency - Region III
Office of Land Enforcement
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029



Carol Amend, Associate Director
Office of Land Enforcement
Land and Chemicals Division

Jan 4, 2017
Date

Enclosures

cc: Melissa Gross, PADEP
Martin Matlin, 3LC70
Pauline Belgiovane, 3LC70

